

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**KEVIN SMITH,**

**Plaintiff,**

**v.**

**UNITED STATES OF AMERICA, et al,**

**Defendants.**

**C.A. No. 06-139 Erie**

**MEMORANDUM OPINION**

Plaintiff's complaint was received by the Clerk of Court on June 22, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On January 21, 2009, Smith filed "Plaintiff's Motion for an Enlargement of Time to Conduct Discovery" [Doc. #71]. That same day, Magistrate Judge Baxter denied the motion by text order. On February 6, 2009, Plaintiff filed a "Motion for Injunctive Relief, Reconsideration of Plaintiff's Motion for Enlargement of Time to Conduct Discovery" [Doc. #72]. Magistrate Judge Baxter held a hearing on this motion on February 18, 2009 [Doc. #73]. At the conclusion of the hearing, the magistrate judge issued an oral report and recommendation. On February 25, 2009, the official transcript of the February 18, 2009 hearing was filed by the court reporter [Doc. #74]. Notice of the filing was sent to Plaintiff at FCI Elkton

The magistrate judge's February 18, 2009 report and recommendation recommended that the "Motion for Injunctive Relief, Reconsideration of Plaintiff's Motion for Enlargement of Time to Conduct Discovery" [Doc. #72] be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at FCI Elkton, where he is incarcerated, and on Defendants. Plaintiff filed his objection to the February 18, 2009 report and recommendation on March 9, 2009.

Rule 72 of the Federal Rules of Civil Procedure provides, in pertinent part, that “the district court may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.” Fed.R.Civ.P. 72(b). After de novo review of the pleadings and documents in the case, including the transcript of the February 18, 2009 hearing, together with the report and recommendation, we accept and adopt Magistrate Judge Baxter’s February 18, 2009 report and recommendation as our opinion

An appropriate Order follows.

March 12, 2009

  
MAURICE B. COHILL, JR.  
United States District Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge

all parties of record \_\_\_\_\_